

California Energy Commission  
Docket Office, MS-4  
Re: Docket No. 11-RPS-02  
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| <b>DOCKET</b><br><b>11-RPS-01</b> |
| DATE _____                        |
| RECD. <u>MAR 30 2012</u>          |

RE: Docket # 11-RPS-01 – Comments of Turlock Irrigation District

The Turlock Irrigation District (TID) appreciates the opportunity to submit comments on the 33 Percent Renewables Portfolio Standard (RPS) Pre-Rulemaking Draft Regulations. TID applauds Staff's efforts to include stakeholders in the process with the March 1<sup>st</sup> workshop and especially the opportunity after the workshop to discuss informally with Staff priority topics and issues facing Publicly Owned Utilities (POU's).

The following comments are specific to TID and serve as an effort to clarify and illustrate our unique issues raised in the roundtable discussion after the March 1<sup>st</sup> workshop.<sup>1</sup> TID also supports the comments made by CMUA and the Modesto Irrigation District, Redding Electric Utility, and TID group that raise issues that are broader in scope. TID's comments below relate to Public Utilities Code Section 399.16(d), which provides that resources procured before June 1, 2010 will "count in full" towards a POU's RPS obligations. TID interprets the Section 399.16(d) to allow a publicly owned utility to satisfy any of its portfolio content category requirements with a resource that was procured before June 1, 2010. To this end, TID provides suggested redlines to the CEC's Pre-Rulemaking Draft regulations (Attachment A), to effectuate TID's interpretation of the statutory language enacted by SB 1x-2. TID would also request that the Commission consider historical RPS carryover referenced in joint comments with Sacramento Municipal Utility District (SMUD), as well as the unintended consequences of conflicting RPS and GHG State policies as outlined below.

### **Background**

TID was organized as the first Irrigation District in California on June 6, 1887 and will be celebrating its 125<sup>th</sup> anniversary this year. TID serves a retail electric customer base of nearly 100,000 customers and provides irrigation water to over 5,800 growers covering 149,500 acres of Central Valley

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<sup>1</sup> [http://www.energy.ca.gov/portfolio/documents/2012-03-01\\_workshop/2012-03-01\\_presentation.pdf](http://www.energy.ca.gov/portfolio/documents/2012-03-01_workshop/2012-03-01_presentation.pdf)

farmland. TID is also one of only six Balancing Authorities in California, tasked with balancing load and generation, while providing adequate reserve capacity to maintain reliability.

TID has a long history of environmental stewardship, beginning when the District was formed, and we acquired some of the oldest water rights on the Tuolumne River. TID has a great track record of caring for natural resources. TID is the majority owner and project manager of the Don Pedro Dam and powerhouse, providing irrigation water and 203 MW of clean energy to our customers, all while providing flood control and environmental benefits for the region.

In the early 2000's TID monitored the rising State support of environmental laws and regulations. SB 1078 was passed in 2002, and shortly thereafter the TID Board voluntarily adopted an RPS goal of 20% by 2017. After the State passed the landmark AB 32 legislation in 2006 and while the Legislature continued to discuss increasing the state's RPS procurement requirements, it was apparent to TID that a major investment should be made in renewable, carbon free generation. The 33% RPS Goal was already being formed by Executive Order in 2008 and regulatory action in 2009 (CARB Renewable Electricity Standard) as an emissions reduction measure under AB 32. TID already served nearly 40% of its retail load with carbon free resources, but a major portion of the portfolio was and is comprised of Large Hydro resources, which do not qualify as eligible renewable energy resources under current California rules.

After analyzing a number of potential asset options, TID chose to purchase the Tuolumne Wind Project (TWP) in Klickitat County, Washington in 2008. TWP became operational in 2009, bringing TID's RPS, as defined under then-existing California Statute, from 5 to 28 percent. TWP is a major part of TID's budget, but gives TID ratepayers certainty in regards to present and future renewable mandates, albeit at a much higher cost compared to fossil based generation options. TWP generates over 400,000 megawatt-hours (MWb) annually and serves roughly 25% of TID's retail load. TID now has a diverse renewable generation portfolio, which includes wind, small hydro, geothermal and solar.

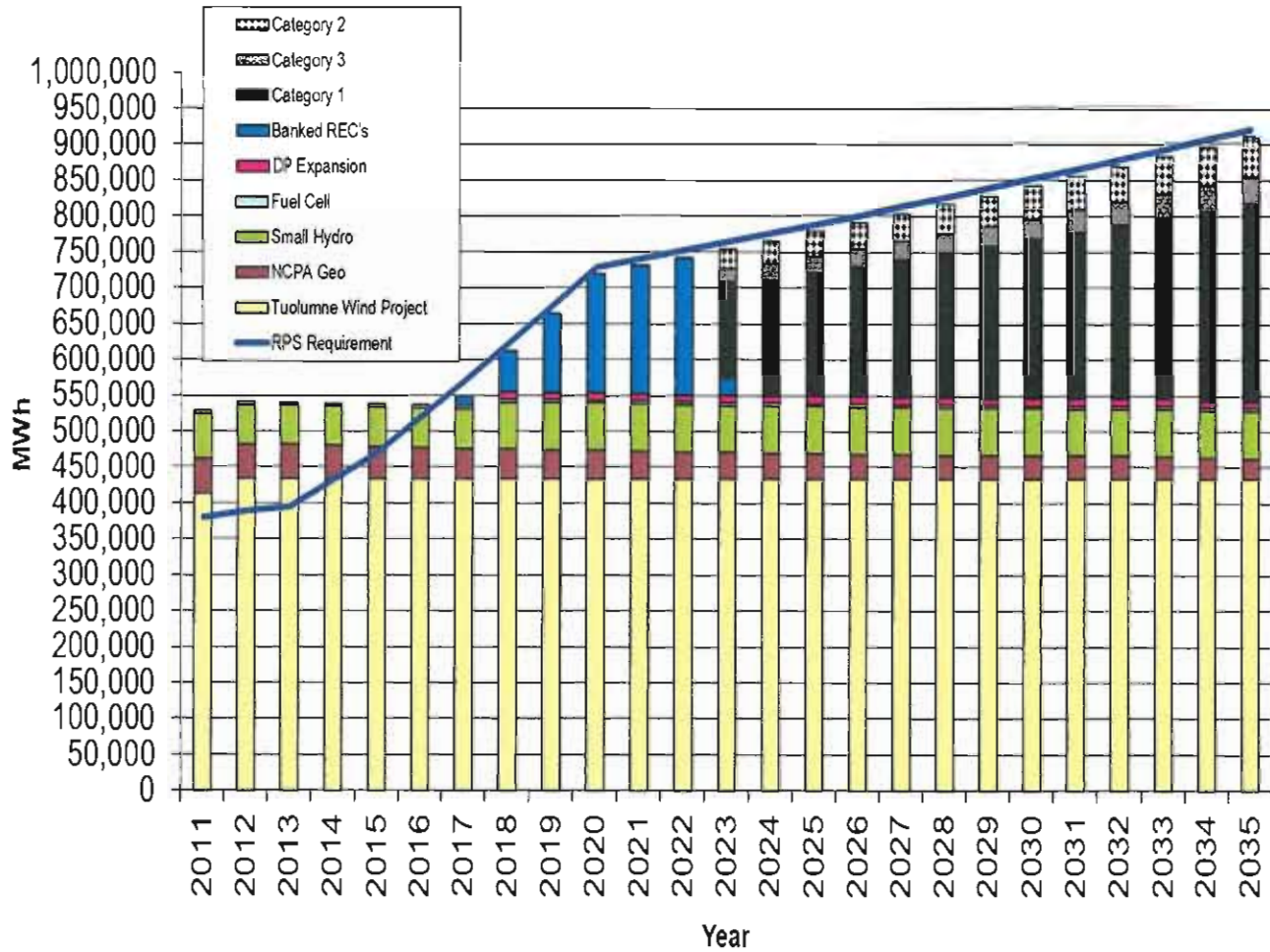
### **Grandfathered Resources and Bucket 3**

SB 1x-2, signed into law in 2011, establishes an RPS structure for POU's that allows a POU Governing Board to manage and implement the RPS procurement obligation subject to monitoring by the Commission. SB 1x-2 recognized early action and allows utilities to "count in full" energy contracts executed prior to June 1, 2010 (§ 399.16(d)). This is known as the "grandfathering" provision, and for TID, it was an essential part of the legislation. The issue TID faces in determining how it will implement SB 1x-2, is that TID must determine how it will satisfy its "unmet need". The portfolio content categories, often referred to as Bucket 1, 2, and 3, won't apply due to TID's early investment in the TWP project because TID does not have any forecast of "unmet need". Therefore,

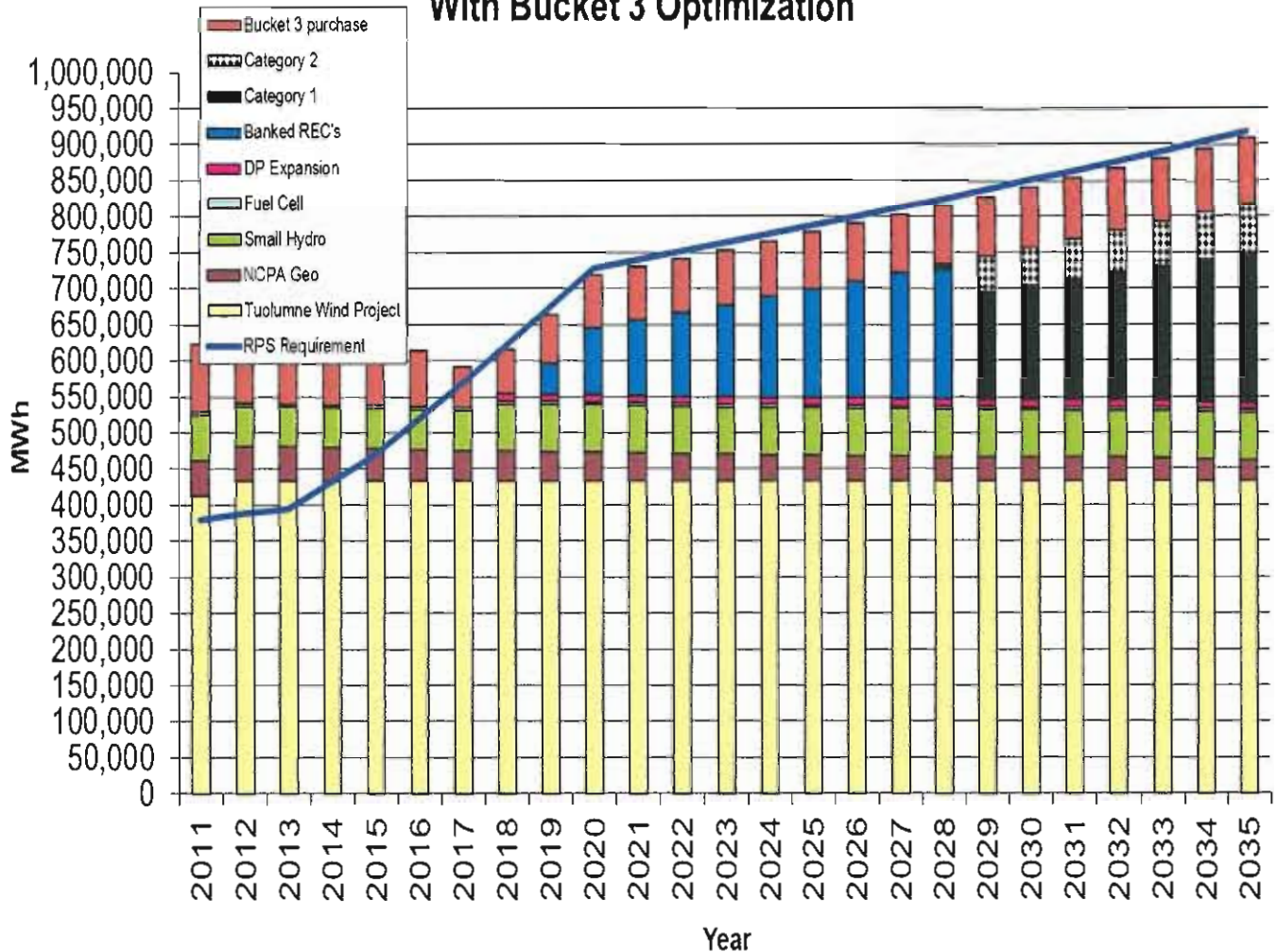
TID is limited in how it can optimize its renewable portfolio. For example, most utilities are starting from a much lower RPS than TID and can layer in their renewable purchases. In the first compliance period, given a 100 GWh RPS obligation, most utilities will fill “Bucket 1” with 50 GWhs and have the right to utilize lower-cost Bucket 3 resources for 25 GWhs worth of RECs. To illustrate the financial differences, Bucket 1 REC premiums are currently being priced at \$40 (energy component not included), whereas CEC certified Bucket 3 RECs can be purchased no higher than \$4, based on TID’s discussions with various REC brokers. In order to minimize cost impacts to its customers and reflect the value of its investments, TID will need to optimize our portfolio with Bucket 3 RECs and bank the commensurate amount of grandfathered generation. To illustrate the impact to TID, following are two graphical representations with and without a Bucket 3 option:

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## Statutory RPS Requirements vs. TID Renewable Resources



## Statutory RPS Requirements vs. TID Renewable Resources With Bucket 3 Optimization



As illustrated by the graphs, without the Bucket 3 option, TID exhausts its banked grandfathered resources by 2022. When the Bucket 3 option is added, TID can extend current resources for six years, allowing TID to maximize the significant RPS investments to date and give our ratepayers cost certainty. The Bucket 3 option will also allow TID time to monitor the California Renewable landscape for local projects and programs that benefit ratepayers and promote a sustainable portfolio on a least cost, best fit basis.

Public Utilities Code Section 399.16(d) provides that “[a]ny contract or ownership agreement originally executed prior to June 1, 2010, shall count in full towards the procurement requirements

established pursuant to this article ....” At the March 1<sup>st</sup> Workshop, Staff presented its interpretation of Public Utilities Code Sec. 399.16(d), noting that the term “count in full” means that the portfolio content category requirements will not apply to generation procured under contracts or ownership agreement in place before June 1, 2010.<sup>2</sup> However, Section 399.16(d) states that a pre-June 1, 2010 resource will count in full for the *procurement requirements*. Since the procurement requirements referenced in this section include the portfolio content category requirements, TID interprets the term “count in full” to mean that a pre-June 1, 2010 resource will count in full for any of the three buckets. Although the legislature did not specify which bucket(s) a pre-June 1, 2010 will satisfy, TID believes that such interpretation reasonably falls within the POUs’ discretion to implement their RPS programs, as set forth in Public Utilities Code Section 399.30.

In order to effectuate TID’s interpretation of the requirements in Public Utilities Code Section 399.16(d), TID has suggests certain revisions to CEC Staff’s Draft Regulations (See Attachment A, edits are noted **RED**). TID’s suggested language changes would make it clear that the Portfolio Content Category requirements can be satisfied with grandfathered resources. It will further establish that utilities that have gone above and beyond the mandate, or early actors, can use Content Category 3 for compliance, provided that the minimums for Content Category 1 are met with Grandfathered resources.

### **Emissions Penalty for unretired REC’s**

TID would also like to point out what could only be classified as an “unintended consequence” of 2 emissions reductions measures. For a short time early in the Cap & Trade Program, if TID chooses to bank TWP generation in excess of 20%, we will be forced to pay the default emissions factor for every Mwh of generation that is not retired for RPS compliance on TWP imports. It seems counterintuitive to have an emissions obligation on wind energy. The problem is exacerbated in future years when banked REC’s are retired in excess of annual TWP generation. What if there are no other energy imports besides TWP to offset? TID may not realize the value of the emissions “credit” paid when originally banking the REC. TID recommends that the Commission discuss this issue with the Air Resources Board, and consider the unintended consequences of paying emissions on zero carbon energy imports.

### **Early Action Carryover**

TID supports joint comments made with SMUD’s concerning early action carryover, as TID has “stranded” RPS procurement from 2010. TID has roughly 26,000 Mwh of 2010 vintage RPS

<sup>2</sup> See CEC Staff Presentation, Slide 7, available at: [http://www.energy.ca.gov/portfolio/documents/2012-03-01\\_workshop/2012-03-01\\_presentation.pdf](http://www.energy.ca.gov/portfolio/documents/2012-03-01_workshop/2012-03-01_presentation.pdf)

generation that is essentially a stranded asset. TID's valuation of this stranded generation is in excess of \$1 million. State RPS policy has a legacy of clearly and consistently recognizing early action, and TID requests that the Commission strongly consider the recommendations made in joint comments.

### **Conclusion**

TID appreciates the opportunity to work with staff in a collaborative fashion towards the successful implementation of the RPS requirements for the publicly owned utilities. SB 1x-2 provides publicly owned utilities with discretion to implement their own RPS programs, including the management of costs associated with the RPS programs. As discussed above, TID interprets the Section 399.16(d) to allow a publicly owned utility to satisfy any of its portfolio content category requirements with a resource that was procured before June 1, 2010. TID provides recommendations in Attachment A that effectuate TID's interpretation of the new statutory language. TID also supports the use of historical carryover, and would like the Commission to consider the unintended consequences of paying emissions on zero carbon energy imports. If you have any questions about these comments, please contact Dan Severson at [dbseverson@tid.org](mailto:dbseverson@tid.org) or (209) 883 - 8603. TID looks forward to continuing to work with staff on these issues.

Sincerely,



Dan Severson  
Analyst, Strategic Issues & Planning  
Turlock Irrigation District

## ATTACHMENT A

TID suggests the following changes to CEC Staff's Draft Regulations (Edits are noted **RED**).

### Section 3202 – Qualifying Electricity Products

(a) In order for an electricity product to be used to meet an RPS procurement target, the electricity product must meet at least one of the following requirements:

(1) The electricity product is procured pursuant to a contract or ownership agreement on or after June 1, 2010, and is associated with generation from an RPS-certified facility.

(2) The electricity product was procured pursuant to a contract or ownership agreement before June 1, 2010, and meets the following criteria:

(A) The electricity product was approved by the governing board of a POU for procurement to satisfy renewable energy procurement obligations pursuant to former Public Utilities Code Section 387.

(B) The electricity product is associated with generation from a facility that meets the definition of a “renewable electrical generation facility” and is RPS-certified.

(3) The electricity products that were procured pursuant to a contract or ownership agreement before June 1, 2010, shall count in full towards procurement targets, **including any of the portfolio content categories specified in Section 3203**, if they meet the following criteria:

(A) The electricity products are associated with generation from a facility that does not meet the definition of a “renewable electric generation facility” but does meet the Commission’s RPS eligibility requirements that were in effect prior to June 1, 2010, when the original procurement contract or ownership agreement was executed by the POU, and the facility is RPS-certified.

(B) Any contract modifications or amendments occurring after June 1, 2010, do not increase the nameplate capacity, expected quantities of annual generation from the facility, or substitute a different renewable energy resource for the facility. If contract amendments or modifications after June 1, 2010, increase nameplate capacity or expected quantities of annual generation, only the amounts agreed to prior to June 1, 2010, shall count in full toward procurement targets. The initial term of such procurement contract may be extended if the initial term of the contract specified a procurement commitment of 15 years or more.

**~~b) Procurement qualifying under Section 3202 (a)(3) of these regulations may be counted for compliance with the RPS without regard to the quantitative requirements for the use of any portfolio content category. If any RECs from a contract signed prior to June 1, 2010, are unbundled and sold separately after June 1, 2010, the underlying energy may not be counted for compliance with the RPS, and the unbundled RECs must be counted in Portfolio Content Category 3, as defined in Section 3203 (e) of these regulations.~~**